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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

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JONES, SCOTT E	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte VICTOR KEITH BLANCO

Appeal 2008-5235
Application 09/802,504
Technology Center 3700

Decided:[1] February 9, 2009

Before TONI R. SCHEINER, ERIC GRIMES, and JEFFREY N. FREDMAN, *Administrative Patent Judges*.

GRIMES, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims related to restricting access to content in a game system. The Examiner has rejected

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

the claims as anticipated and obvious. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

The Specification discloses that "available gaming systems cannot restrict the content displayed once a disc has been installed in the gaming system" (Spec. 1-2) and "do not provide any parental control mechanism to restrict the types of online data retrieved and displayed" (*id.* at 2). The Specification discloses a method and apparatus that "provides the ability to restrict access to various types of content in a gaming system" (*id.*). "Separate parental control settings can be established for each type of content supported by the gaming system. . . . For example, the gaming system can be configured to play any music CD, but restrict game content to games that are appropriate for teenagers." (*Id.* at 3.)

Claims 1-18 and 21-57 are pending and on appeal. Claim 1 is representative and reads as follows:

Claim 1: A game console, comprising:
a memory to store a plurality of parental control settings, wherein the plurality of parental control settings are associated with different media types;
a media reader to read content from the different media types; and
a processor coupled to the memory and the media reader, wherein the processor allows performance of the content read by the media reader if the parental control setting corresponding to the media type of the content being read is satisfied.

The claims stand rejected as follows:

• claims 1, 5-7, 9, 10, 12-16, 21-26, 28-31, 35-44, 47-50, and 52-57 under 35 U.S.C. § 102(b) as anticipated by Lee[2];

• claims 2-4, 8, 11, 17, 18, 27, 32-34, 45, 46, and 51 under 35 U.S.C. § 103(a) as being unpatentable over Lee.

ANTICIPATION

The Issue

The Examiner has rejected claims 1, 5-7, 9, 10, 12-16, 21-26, 28-31, 35-44, 47-50, and 52-57 under 35 U.S.C. § 102(b) as anticipated by Lee.

The Examiner's position is that

> Lee discloses a computer (game) system having a function of interrupting lewd/violent programs which includes … a non-volatile memory device for storing a security grade which is a program classification code … ; and a controller for controlling execution of an application program according to the security grade of the application program and the security grade stored in the non-volatile memory device.

(Answer 3.) The Examiner finds that "Lee further encompasses other media types such as television programs, etc." (*id.* at 4).

Appellant contends that the Examiner erred in finding that Lee discloses "'a memory to store a plurality of parental control settings … associated with different media types'" because "an application program and a television program are <u>not</u> different media types as recited in claim 1" but are "different content, not different media types" (Appeal Br. 10).

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[2] Lee, US 5,978,920, Nov. 2, 1999.

The issue with respect to this rejection is: Does the evidence support the Examiner's finding that Lee discloses the claim limitation of "a memory to store a plurality of parental control settings … associated with different media types"?

Findings of Fact

1. Lee discloses a "computer system having a function for intercepting lewd/violent programs which includes a central processing unit (CPU) for controlling execution of an application program … according to the security grade of the application program and the security grade stored in security grade memory," and "a security grade memory for storing security grade infonmation [sic] to pennit [sic] execution of the application program" (Lee, col. 2, ll. 39-57).

2. Lee discloses that "the CPU **11** initializes an application program when the application program is first inserted into the computer system by way of CD-ROM drive **37** or other available means" (*id.* at col. 6, ll. 31-34).

3. Lee discloses that "if the computer system is further constructed to serve as a television receiver, then the application program can also encompass television programs that carry different program classification codes for different levels of graphic sex, violence and strong language" (*id.* at col. 7, ll. 27-31).

4. Lee discloses a

> security grade examination process … [that] includes the steps of comparing the security grade contained in an application program with the security grade set to the computer system, determining whether the security grade set to the computer system enables execution … , executing the application program when the security grade set to the computer enables

> execution of the present application program, and outputting [an] error message when the security grade set to the computer system does not enable execution.

(*Id.* at col. 2, ll. 64 – col. 3, l. 7.)

5. The Specification discloses that "[a]ccess can be restricted to game content, audio content, video content, and online content. Separate control settings can be established for each different type of content." (Specification 4: 16-18.)

6. The Specification discloses that "the filter levels may change depending upon the media type under review. Fig. 9 shows the parental control options for games. A different set of options may be presented for movies or music." (Specification 15: 24 – 16: 1.)

7. The Specification discloses that "different media types that may be played by the game console include a game media type, a music media type, and a movie media type" (Specification, pg. 26 (original claim 30)).

8. The Specification discloses that the "identified content to be played by the game console is selected from a group of media types comprising game data, audio data, and video data" (Specification, pg. 27 (original claim 36)).

Principles of Law

> [A]s an initial matter, the PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be

> afforded by the written description contained in the applicant's specification.

In re Morris, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Analysis

Claim 1 is drawn to a game console that comprises (i) a memory to store parental control settings associated with different media types, (ii) a media reader to read content from the different media types, and (iii) a processor coupled to the memory and the media reader that allows performance of the content read by the media reader if the parental control setting corresponding to the media type of the content being read is satisfied. Appellant does not dispute that Lee discloses a game console that entails a memory to store parental control settings, a media reader to read content, and a processor that couples the memory to the media reader.

Claim 1 also requires that the memory "store a plurality of parental control settings … associated with different media types" and that the media reader "read content from the different media types." Appellant argues that, "[i]n Lee, 'application program' and 'television program' refer to different content, not different media types" and that therefore, Lee does not disclose a memory to store a plurality of parental control settings associated with different media types (Appeal Br. 10).

The Examiner finds that "Lee further encompasses other media types such as television programs" (Answer 4) and reasons that "a game program can be introduced to the computer game system via a game CD, whereas, the television program can be from a cable connection to the computer game system. Hence, Lee discloses different media types" (*id.* at 9). Thus,

resolution of the disputed issue requires interpretation of the term "different media types" recited in claim 1.

Claim terms are given their broadest reasonable interpretation according to their ordinary meaning and are further interpreted in view of the Specification. The Specification does not define the term "media types," but states that different media types include games, music, and movies. The Specification also states that the disclosed system can apply different parental control settings, or filter levels, for different types of content (e.g., music, games, and movies). Thus, one of skill in the art would interpret "media types," in accordance with its use in the Specification, to mean different types of content; e.g., games and music are different media types, even if they are both encoded on CDs.

Lee discloses a computer that can restrict access to computer games and television programming according to established security codes. Under the broadest reasonable interpretation of "media types" consistent with its use in the instant Specification, one of skill in the art would interpret computer games and television programming to be different media types. Thus, Lee discloses the disputed claim limitation of "a memory to store a plurality of parental control settings … associated with different media types." (Appeal Br. 10.)

Appellant argues several other claim groups separately from claim 1 (Appeal Br. 11-19). However, Appellant's arguments, for each group, are based on the same issue discussed above for claim 1, and are not persuasive for the same reason.

OBVIOUSNESS

The Examiner has rejected claims 2-4, 8, 11, 17, 18, 27, 32-34, 45, 46, and 51 under 35 U.S.C. § 103(a) as obvious in view of Lee. The Examiner concludes that, although Lee does not identically disclose the products defined by these claims, the differences between what is claimed and what is disclosed by Lee would have been obvious to a person of ordinary skill in the art (Answer 7-8).

We agree with the Examiner's reasoning and conclusion.

Appellant's arguments, for each of the groups argued separately, are based on the same issue discussed above for claim 1 (Appeal Br. 19-22) and for the reasons discussed above, do not persuade us that the Examiner's rejection is in error.

CONCLUSIONS OF LAW

The evidence supports the Examiner's conclusion that Lee discloses the claim limitation of "a memory to store a plurality of parental control settings … associated with different media types."

SUMMARY

We affirm the rejection of claims 1, 5-7, 9, 10, 12-16, 21-26, 28-31, 35-44, 47-50, and 52-57 under 35 U.S.C. § 102(b) as being anticipated by Lee and the rejection of claims 2-4, 8, 11, 17, 18, 27, 32-34, 45, 46, and 51 under 35 U.S.C. § 103(a) as being obvious in view of Lee.

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

cdc

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052